



SOUTH AFRICAN LOCAL  
GOVERNMENT ASSOCIATION

**SALGA**

*Inspiring service delivery*

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# MUNICIPAL SUPPORT AND INTERVENTION FRAMEWORK

**2020**



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## **ACRONYMS**

DCOG	Department of Cooperative Governance
DPME	Department of Monitoring and Evaluation
FFC	Finance and Fiscal Commission
IDP	Integrated Development Plan
IGR	Intergovernmental Relations
MEC	Member of a Provincial Executive Council
M&E	Monitoring and Evaluation
MFMA	Municipal Finance Management Act
MIG	Municipal Infrastructure Grant
MTSF	Medium Term Strategic Framework
NCOP	National Council of Provinces
SALGA	South African Local Government Association
StatsSA	Statistics South Africa

## **GLOSSARY OF TERMS**

The following key terms are defined for use in the Framework.

<b>Term</b>	<b>Definition</b>
<b>Monitoring</b>	Monitoring refers to the checking or observation of the performance of municipalities by other spheres of government. Monitoring of municipalities is provided for in the Constitution, the Municipal Systems Act and the Municipal Finance Management Act.
<b>Support</b>	Support refers to the sustenance which is provided by the national and provincial spheres of government to municipalities. The responsibility emanates from section 154 of the Constitution.
<b>Intervention</b>	Intervention refers to an involvement in to a municipality in terms of the provisions of section 139 of the Constitution.
<b>Executive Obligation</b>	<p>The concept of ‘executive obligation’ is dealt with extensively in the judgement of <i>Mnquma LM vs The Premier of the Eastern Cape Provincial Government</i> case. It states that an executive obligation is not to be confused with statutory obligation or duties that are aimed at ensuring the effective performance by local government of its executive obligations.</p> <p>“The obligation of local government is to provide government at the local level and to discharge functions associated therewith” This includes the obligation to:</p> <ul style="list-style-type: none"> <li>• implementation and administration of legislation associated with this;</li> <li>• provide services in its areas of jurisdiction;</li> <li>• provide an administration to do this;</li> <li>• develop policy in relation to these obligations; and</li> <li>• initiate by-laws to effectively govern in its areas of jurisdiction.</li> </ul> <p>There should be a connection between the conduct of a council and the failure to comply with an executive obligation. An executive obligation places the obligation on the council itself rather than a functionary such as the municipal manager, the mayor, the audit committee, etc.</p>

# **1 INTRODUCTION**

This document constitutes the Framework for Support and Intervention in Local Government, hereafter referred to as **the Framework**. It sets out how monitoring, support and intervention could ideally work in the local government sector. It has been informed by a desktop review of relevant legislation, policy and available research as well as interviews conducted with key informants, and a workshop convened with key SALGA stakeholders.

## **1.1 PURPOSE OF THE MUNICIPAL SUPPORT AND INTERVENTION FRAMEWORK**

Section 139(8) of the Constitution continues to provide that national legislation may regulate the implementation of the entire section 139, i.e. regulate interventions and the manner in which they are carried out. While the legislative process is still underway, the purpose of the Framework is to guide the manner in which monitoring, support and interventions in terms of section 139 can be undertaken to enable local government to achieve its developmental objectives. The Framework proposes an approach that any section 139 intervention undertaken by provincial government in a municipality needs to be preceded and underpinned by support to municipalities. A provincial executive may intervene in a municipality if the latter is any of the following criteria are met:

- A municipality is unable to fulfil an executive obligation;
- A municipality is unable to approve a budget or any revenue raising measures necessary to give effect to it;
- As a result of a financial crisis, a municipality is in a serious or persistent material breach of its obligations to provide basic services, or to meet its financial commitments; or
- A municipality admits that it is unable to meet its obligations or financial commitments.

This framework suggests that a provincial government should firstly fulfil its mandate to monitor local government. When a municipality has been identified

as underperforming, the relevant provincial government must provide the necessary support to such a municipality. Only when support has failed, can the provincial executive and/or national government invoke section 139. The Framework further guides how a municipality that has been subjected to a section 139 intervention can be supported to enable it to fulfil its executive and legislative mandate.

## **1.2 THE ROLE OF SALGA IN MONITORING, SUPPORT AND INTERVENTION**

The South African Local Government Association (SALGA) is the recognised voice of local government in terms of the Organised Local Government Act 52 of 1997 in accordance with section 163 of the Constitution. Apart from being an employer body for local government, SALGA is an autonomous association of municipalities performing an important role within the IGR system. SALGA represents local government in national and provincial legislative processes. As such, it is the body that national and provincial government consult with when contemplating legislation that impacts on local government.

First, SALGA represents local government in the National Council of Provinces (NCOP), which is tasked with ensuring that provincial and local government interests are taken into account in the national sphere of government. The NCOP plays a critical review role in promoting intergovernmental relations as provided for in terms of sections 100 and 139 of the Constitution respectively. In the case of section 100 intervention, the NCOP alone approves an intervention by a national executive in a province. However in the case of a section 139 intervention, the NCOP is one of the parties that must receive a written notice of an intervention from the provincial executive. This written notice of an intervention in a municipality must be received within 14 days after the commencement of the intervention and should also be submitted to the Minister responsible for local government as well as the relevant provincial legislature.

Second, SALGA is represented in the Financial and Fiscal Commission (FFC) which makes recommendations to Parliament, provincial legislatures, organised local government and other organs of state on financial and fiscal matters, such as the fiscal framework, the division of revenue and the equitable share.

In these structures and legislative processes, SALGA represents the interests of local government. To perform its role effectively, SALGA has a key role to play in building the capacity of municipalities as well as advocating the interests of municipalities in national and provincial processes that impact on local government. In addition, section 3 of the Local Government Municipal Systems Act 32 of 2000 summarises the role of organised local government as being to:-

- develop common approaches for local government as a distinct sphere of government;
- enhance co-operation, mutual assistance and sharing of resources among municipalities;
- find solutions for problems relating to local government generally; and
- facilitate compliance with the principles of co-operative government and intergovernmental relations.

One of SALGA's strategic goals is *Effective, Responsive and Accountable Local Governance for communities*. Part of this is to ensure coherent local government support by all spheres of government and other stakeholders including public entities and private companies. Linked to this objective is the goal of providing multi-disciplinary support to municipalities to ensure that municipalities are sustainable, self-sufficient and able to deliver effective and accountable governance.

SALGA's support role to municipalities requires it to engage with national and provincial government in their regulations of municipalities. SALGA is therefore developing this Framework to enable it to advocate for how the process of monitoring, support and intervention can happen to ensure that municipalities are able to play a developmental role in the country.

This Framework is therefore meant to assist SALGA in its role as the representative body of local government to do the following:

- achieve internal coherence on its role with respect to support and intervention;
- serve as a lobbying and advocacy tool on how support and interventions should work in the local government sector; and



- manage relationships with external stakeholders in terms of roles and responsibilities with respect to monitoring, support and intervention in the local government sector.

## **1.3 ABOUT THE FRAMEWORK**

The Framework forms the basis for the development of a Municipal Support and Intervention Model that will specifically address SALGA's role in monitoring, support and intervention in the local government sector. In addition to the Introduction, this Framework has the following sections to it:

- **Section 2** details the legislative and policy context for monitoring, support and intervention in municipalities. It sets out the developmental agenda that municipalities serve and underpins the responsibility of provincial and national government to support and strengthen the capacity of municipalities to implement it.
- **Section 3** sets out the problem statement this Framework is responding to. Research has shown that the manner in which monitoring, support and interventions have been undertaken has not so far been consistent and predictable. In many instances, interventions in municipalities are not preceded by support. The mechanisms for monitoring are also not common across the sector.
- **Section 4** proposes an approach to differentiating municipalities. Municipalities differ in terms of context and performance. It is on performance that interventions are meant to happen, however support needs to be provided also to help municipalities overcome this context as well.
- **Section 5** proposes a framework for monitoring. Legislation sets out the responsibilities for monitoring municipal performance. The monitoring of municipal performance has to happen within a broader monitoring and evaluation framework for local government that is aligned to the Government-wide M&E (GWME) system. As such roles and responsibilities for monitoring municipalities must be clarified.
- **Section 6** sets out a framework for support to municipalities. There are different types of support ranging from ongoing broad-based support to targeted support. The latter is provided to municipalities which, through monitoring, have been identified as underperforming in specific areas.

- **Section 7** sets out the framework for interventions in municipalities based on legislation and policy. Interventions are a measure of last resort that can only be undertaken when support has been provided and has failed. The intention of any intervention should not be punitive but rather taken as a corrective measure to build the capacity of a municipality to enable it to fulfil its executive obligations as required by the Constitution.

## 2 LEGISLATIVE AND POLICY CONTEXT

The imperative for monitoring, support and intervention in municipalities is located in legislation and the policy governing local government. The Constitution and the Local Government White Paper provide context for these processes to happen which is supported by specific legislation.

### 2.1 THE DEVELOPMENTAL AGENDA

The importance of monitoring, support and intervention lies in the fact that municipalities have a developmental mandate to give priority to basic needs of the community as well as promote social and economic development of the community. Municipalities are tasked by the Constitution to structure and manage their administration, budgeting and planning processes to be able to carry out this developmental agenda. In addition, they should also participate in development programmes of national and provincial government.

The White Paper on Local Government further defines developmental local government as local government that is committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives. Developmental local government<sup>22</sup> comprises of four basic characteristics<sup>22</sup>:

1. **Maximising economic growth and social development:** local government must exercise its powers and functions in a way that has a maximum impact on economic growth and social development of communities;

22 CLC, Developmental Local Government: Determining Appropriate Powers and Functions

- 2. Integrating and coordinating:** local government must integrate and coordinate developmental activities of other state and non-state agents in the municipal area;
- 3. Democratic development:** public participation: local government are vehicle through which citizens work to achieve their vision of the kind of place in which they wish to live;
- 4. Leading and learning:** municipalities must build social capital, stimulate the finding of local solutions for increased sustainability and stimulate the local political environment.

## **2.2 COOPERATIVE GOVERNMENT**

The developmental agenda cannot be achieved by local government on its own without the support and participation of other spheres of government. Chapter 3 of the Constitution provides that government in South Africa is made up of three spheres of government namely; the national, provincial and local spheres. These three spheres of government are distinctive, interdependent and interrelated. These concepts have since been explained and defined<sup>23</sup>.

**Distinctive:** each sphere of government is allocated specific powers and functions over which they either have concurrent (Schedule 4) or exclusive (Schedule 5) responsibility. Local Government is allocated the powers and functions as set out in Schedules 4B and 5B of the Constitution. The legislative authority for Schedule 4 functions is shared between all 3 spheres of government and between provincial and local government for Schedule 5 functions.

**Interdependent:** each sphere must exercise its autonomy to the common good of the country by co-operating with the other spheres.

**Interrelated:** the exercise of autonomy by one sphere is supervised by another. Mainly, national government has supervision over provincial government and in turn, provincial government exercises supervision of local government. Supervision ensures oversight and provides for checks and balances to avoid an abuse of power.

The three spheres of government are therefore required to observe and adhere to the principles of cooperative government which provide that the spheres of government must exercise their powers and functions in a manner that is respectful to one another as well as cooperate and coordinate their actions with one another. The Intergovernmental Relations Framework Act 13 of 2005 enables this cooperation and coordination through the establishment of intergovernmental structures between the three spheres of government.

The White Paper on Local Government builds on the context for monitoring, support and intervention as set out in the Constitution and further describes the roles and responsibilities of national and provincial government with respect to local government.

## **2.3 MONITORING OF LOCAL GOVERNMENT**

Monitoring of local government happens at different levels. There is self-monitoring by municipalities through the required systems and processes for planning and performance management. Second, the Constitution and other legislation, particularly the Municipal Systems Act and the Municipal Finance Management Act, empower provincial and national government to monitor the performance of municipalities.

### **2.3.1 Self-monitoring by municipalities**

Chapters 5 and 6 of the Municipal Systems Act provide for integrated development planning and performance management, respectively, in municipalities. Section 38 of this Act requires a municipality to establish a performance management system to measure its own performance as well as enable it to report to other spheres of government on its performance as well as highlight any challenges. A municipality is required to set key performance indicators along with targets to measure its performance against its development priorities and objectives as set out in its integrated development plan (IDP). The key performance indicators set by a municipality for its performance management system must include the General Key Performance Indicators prescribed by the Minister in 2001. These are:

- a. The percentage of households with access to basic level of water, sanitation, electricity and solid waste removal;

- b. the percentage of households earning less than R1100 per month with access to free basic services;
- c. the percentage of a municipality's capital budget actually spent on capital projects identified for a particular financial year in terms of the municipality's integrated development plan;
- d. the number of jobs created through municipality's local economic development initiatives including capital projects;
- e. the number of people from employment equity target groups employed in the three highest levels of management in compliance with a municipality's approved employment equity plan;
- f. the percentage of a municipality's budget actually spent on implementing its workplace skills plan; and
- g. financial viability as expressed by the following ratios:

(i)  $A=(B-C)/D$

Where - "A" represents debt coverage "B" represents total operating revenue received "C" represents operating grants Page 10 of 15 Prepared by: In partnership with: "D" represents debt service payments (i.e. interest + redemption) due within the financial year;

(ii)  $A=(B)/C$

Where - "A" represents outstanding service debtors to revenue "B" represents total outstanding service debtors "C" represents annual revenue actually received for services;

(iii)  $A=(B+C)/D$

Where - "A" represents cost coverage "B" represents all available cash at a particular time "C" represents investments "D" represents monthly fixed operating expenditure.

The Municipal Systems Act further requires municipalities to publish their key performance indicators and performance targets<sup>24</sup>. The results of the performance measurements also audited as part of the auditing processes by the

Auditor-General<sup>25</sup>. As part of its annual report, municipalities must also produce an annual performance report in accordance with section 46 of the Municipal Systems Act. This report must detail the performance of the municipality and that of any external service provider and compare it with the targets set and performance of the previous year. This will show if a municipality has taken remedial steps to improve its performance where it has been poor.

In addition, the object of the Municipal Finance Management Act (MFMA) 56 of 2003 is to “secure sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms and standards and other requirements...” The MFMA requires municipal managers prepare the following reports:

- Prepare and submit to the mayor and the provincial treasury monthly **budget statements**<sup>26</sup> reflecting the actuals for revenue, borrowings, expenditure, capital expenditure, allocations received and their expenditure and explanations on variances;
- Prepare and submit to the mayor, National Treasury and relevant provincial treasury a **mid-year budget and performance assessment report**<sup>27</sup> taking into account the monthly budget statements referred to above; service delivery performance against the targets in the service delivery and budget implementation plan (SDBIP) of the municipality; progress on resolving problems in the annual report of the preceding year; and the performance of all municipal entities of the municipality;
- Prepare **annual report**<sup>28</sup> including, among others, financial statements, the Auditor-General’s audit report on the financial statements; annual performance report; assessment of any arrears on taxes and service charges; performance against revenue targets; corrective action taken or to be taken in response to the issues raised in the audit reports.

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25 Section 45

26 Section 71(1)

27 Section 72

28 Section 121

The Act further obliges municipal managers to inform the provincial treasury in writing, of any failure by the municipal council to adopt or implement a budget-related policy or supply chain management policy as well as any non-compliance by a political structure or office-bearer of the municipality with such a policy<sup>29</sup>.

### **2.3.2 Monitoring of municipalities by provincial government**

The second level of monitoring municipal performance is the constitutional responsibility given to provincial government. Section 155(7) of the Constitution provides that each provincial government must provide for the monitoring and support of local government and promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs. The White Paper on Local Government emphasises that provinces have a key role to play in monitoring municipalities in order to ensure that high standards of public service and good government are maintained.

This role stems from both sections 154(1) and 155(7) of the Constitution. The former provides that national government and provinces have a responsibility to support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. The latter provides that each provincial government must provide for the monitoring and support of local government in the province and promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs.

The monitoring role of provincial governments must be supported by an information system which enables the provincial government to determine where municipal capacity needs to be built and where support is required, and to ascertain whether and which kind of regulation or support is necessary. Section 105 of the Municipal Systems Act which requires the Member of a provincial Executive Council (MEC) to establish mechanisms, processes and procedures in order to:

- a. Monitor municipalities in managing their own affairs and exercising their powers and performing their functions;
- b. Monitor the development of local government capacity in the province;

- c. Assess the support needed by municipalities to strengthen their capacity to manage their own affairs.

This section also allows the MEC to require municipalities to submit specified information to a provincial organ of state, but requires that the MEC relies as far as possible on the municipal annual performance reports as compiled in terms of section 46 of the Municipal Systems Act.

In addition, the MFMA empowers provincial treasuries to ensure that municipalities comply with its provisions. This includes the preparation and the monthly outcome of the municipal budgets and the submission of reports by municipalities in the province. To enable monitoring, the Act provides that the provincial treasury may assist the municipalities in the province to prepare their budgets and may take the necessary steps if a breach of the Act is committed by a municipality or a municipal entity.

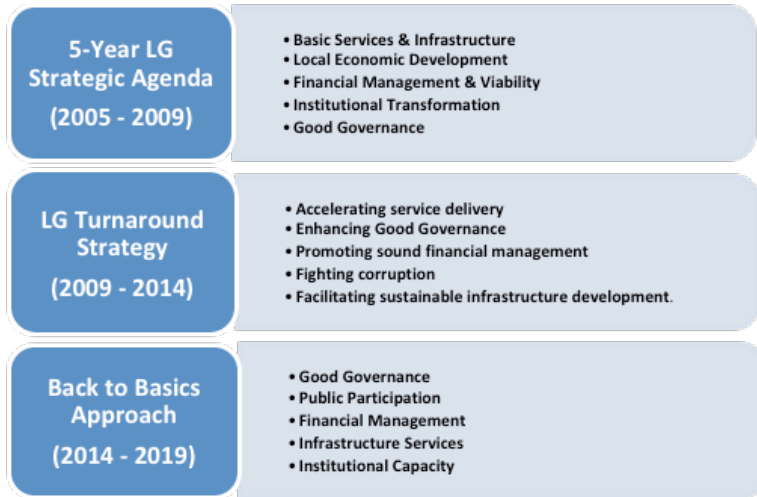
### **2.3.3 Monitoring of municipalities by national government**

The role of national government in monitoring municipalities has been through the annual report compiled by the Minister in terms of section 48 of the Municipal Systems Act. This report consolidates the section 47 reports on the performance of municipalities by province and it must identify municipalities that under-performed during the year as well as proposed remedial action to be undertaken. As part of this, the Department of Cooperative Governance then monitors progress against the General Key Performance Indicators as gazetted in 2001 in terms of section 43 of the Municipal Systems Act.

DCoG has monitored local government using these indicators as a basis and more for the last 10 years. In 2005, it did this through the 5-Year Local Government Strategic Agenda, then the Local Government Turnaround Strategy and now the Back to Basics Approach.



The diagram below summarises the key performance areas for each of these national monitoring programmes.



**Figure 1: Key Performance areas for National Monitoring Programmes**

In terms of each of these monitoring programmes municipalities were expected to submit reports to DCoG. The current Back to Basics Programme requires each municipality to endorse a report on the degree to which it is meeting its governance and service delivery obligations.

Furthermore, the MFMA further empowers the National Treasury to enforce compliance with the measures established in terms of section 216 (1) of the Constitution. These are measures to ensure both transparency and expenditure control in each sphere of government by introducing the following measures<sup>30</sup>:

- Generally recognised accounting practice;
- Uniform expenditure classifications; and
- Uniform treasury norms and standards.

30 Section 216(1) of the Constitution

For municipalities this includes monitoring their budgets to establish whether they are consistent with national government’s fiscal and macro-economic policy and the MFMA provisions for municipal budgets. The Act further provides that the National Treasury may investigate any system of financial management and internal control in any municipality or municipal entity. In addition, the National Treasury is empowered to take appropriate steps if a municipality or municipal entity commits a breach of the MFMA including stopping funds if a municipality or a municipal entity commits a serious or persistent material breach<sup>31</sup> of any measures referred to above.

## **2.4 SUPPORT TO MUNICIPALITIES**

Monitoring enables national and provincial government to identify areas of support to municipalities. The responsibility to support local government achieve its objectives also emanates from the Constitution. Section 154 of the Constitution creates an obligation for national and provincial government to support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

Chapter 13 of the NDP address the need to build a capable and developmental state explicitly calls on national and provincial government to support and oversee local government. It makes this call for support to local government through the development of systems to strengthen local government, including recruitment systems, operational guidelines for routine tasks, staffing frameworks for municipal functions, standard assessment procedures for recruiting new staff and guidelines on salary levels.

Chapter 9 of the Medium Term Strategic Framework (2014 – 2019) emphasises the critical role of local government as part of the developmental state and also highlights the challenges faced in the local government sector including lack of central co-ordination support, information and M&E systems. The MTSF clearly spells out that national and provincial government have a responsibility to ensure that municipalities receive the best possible support in meeting their constitutional objectives. It further states that the role of organised local government should then be to highlight where such support is missing, or is not of an adequate standard. Sector departments responsible for monitoring and

31 Section 5(2)(e) of the MFMA

supporting the provision of municipal services must lead in doing so. Tools and mechanisms should therefore be developed to strengthen support, monitoring and intervention initiatives by sector departments and provinces.

### ***Role of national government***

Section 125(3) of the Constitution obliges the national government to assist provinces to develop the administrative capacity required for the effective exercise of their powers and functions. The White Paper on Local Government provides that the role of national government includes providing an overall framework for municipal capacity-building and support as well as an overall framework for a system of monitoring and oversight within which other organs of state, particularly provincial governments will perform these functions.

The Back to Basics Approach tasks DCoG and National Treasury with supporting municipalities with the development and implementation of comprehensive infrastructure and maintenance plans. Part of this support is also to provide institutional support to improve expenditure, develop sound financial management as well as to build the capacity of councillors.

### ***Role of provincial government***

The White Paper on Local Government reiterates that one of the key roles and responsibilities of provinces is to support municipalities. This role also stems from section 155(7) of the Constitution as mentioned earlier which tasks provinces to support local government in the province and promote the development of local government capacity to enable municipalities to perform their functions and manage their own affairs.

The Back to Basics Approach support to provinces prioritises ensuring basic services through strengthening the capacity of the Rapid Response Team for monitoring the implementation plans of municipalities and to improve governance through intensifying monitoring and support to council meetings. It further outlines the role provincial treasuries and provincial DCoG should play in ensuring sound financial management. It identifies the role of SALGA as being to monitor the functionality of local labour forums collaboratively with provincial governments.

## ***Role of district municipalities***

The Municipal Structures Act (1998) together with the White Paper envisaged that district municipalities would play the role of providing support to local municipalities as well as play a redistributive, coordination and planning role in their areas of jurisdiction. The role of district municipalities has evolved to include districts as providers of bulk services, development facilitators, co-ordinators and supporters of weak locals including the critical role of co-ordinating District Intergovernmental Forums as set out in the Intergovernmental Relations Framework Act (2005).

District municipalities are also meant to build the capacity of the weaker local municipalities falling within the district. Importantly, they serve as units for strategic planning and spatial coordination for the district, especially in cases where district municipalities are the water services authorities (WSA) for their area of jurisdiction. Where district municipalities have an authority function, they provide the local regulatory function over local municipalities which have the provider function.

## **2.5 INTERVENTIONS IN MUNICIPALITIES**

Whilst the principles of cooperative government prevent the spheres of government from encroaching on one another when exercising their powers and functions, the Constitution creates an exception through section 100 which allows for the national executive to intervene in a province and section 139 which allows for provincial administration to intervene in local government when there is a failure to fulfil an executive obligation; approve a budget or revenue-raising mechanisms to give effect to a budget; or fails to provide basic services or meet financial obligations. The Municipal Finance Management Act (MFMA) 56 of 2003 further provides for intervention in municipalities on the basis of serious financial problems.

### **2.5.1 Interventions by provincial government**

Section 139 of the Constitution gives provincial executive the right to intervene in the affairs of local government when a municipality fails to fulfil its constitutional obligations and the regulation of its executive powers does not succeed in

ensuring that it perform its functions effectively. The aim of an intervention is to protect and promote minimum standards for service delivery and sound financial management in local government.

### ***Action by province when intervening in a municipality***

The process to be followed in each type of intervention is depicted in Appendix I<sup>32</sup>. The Constitution of South Africa provides for the following instances in which a province can intervene in the affairs of local government:

- a. Section 139(1) in instances where a municipality fails to fulfil an executive obligation;
- b. Section 139(4) where a municipality fails to approve a budget or any revenue raising measures to give effect to the budget;
- c. Section 139(5) instances where a municipality due to its financial affairs is unable to meet its obligations to deliver services or to meet financial commitments; or
- d. Section 139(5) where a municipality admits that it is unable to meet its obligations or financial commitments.

32 This diagram has been taken from the KZN CoGTA Manual on the application of s139 of the Constitution in provincial interventions in municipalities, September 2013

The table below summarises the actions of the provincial executive with regard to the different instances requiring an intervention.

<b>Failure to fulfil an executive obligation (s139(1))</b>	<b>Failure to approve budget or revenue-raising measures to give effect to the budget (s139(4))</b>	<b>Failure to deliver services or to meet financial commitments (s139(5))</b>
<ul style="list-style-type: none"> <li>• Issue a directive to the municipality describing the failure and the steps to requires to correct it;</li> <li>• Assume responsibility for the relevant obligation; or</li> <li>• Only in exceptional circumstances, dissolve the Municipal Council and appoint an administrator until a new Council has been declared elected.</li> </ul>	<ul style="list-style-type: none"> <li>• Dissolve the Municipal Council; and</li> <li>• Appoint an administrator until a new Council has been declared elected; and</li> <li>• Approve a temporary budget or revenue-raising measures to provide for the continued functioning or the municipality</li> </ul>	<ul style="list-style-type: none"> <li>• Impose a financial recovery plan; or</li> <li>• Dissolve the Municipal Council and               <ul style="list-style-type: none"> <li>o Appoint an administrator until a new Council has been declared elected.</li> <li>o Approve a temporary budget or revenue-raising measures; or</li> </ul> </li> <li>• Assume responsibility for the implementation of the recovery plan.</li> </ul>

### ***Types of provincial interventions***

Sections 136 – 150 of the MFMA provide for provincial intervention in municipalities, which may be discretionary or mandatory. Section 136 emphasises the basis of an intervention by a provincial executive on there being a financial problem in a municipality. When the MEC responsible for local

government becomes aware of a financial problem in a municipality, he or she must promptly consult the mayor to determine the facts; assess the seriousness of the situation; and determine if the situation justifies an intervention in terms of section 139 of the Constitution (see the table above).

A **discretionary provincial intervention** may be undertaken if a municipality fails to meet an executive obligation in terms of the Constitution or legislation. In this case, the provincial executive may assess the seriousness of the financial problem; seek solutions to resolve it; determine if the financial problem is sufficiently serious that a municipality would benefit from financial recovery plan; and consult the mayor for the cooperation of the municipality to resolve the financial problem.

A **mandatory provincial intervention** may be undertaken by a provincial executive and it supersedes a discretionary intervention. This type of intervention may be undertaken if a municipality is in serious material breach of its obligations to provide basic services or to meet its financial commitments as a result of a financial crisis. In this case, the provincial executive must request the Municipal Financial Recovery Service to:

- determine the reasons for the crisis in the financial affairs;
- assess the municipality's financial state;
- prepare an appropriate recovery plan for the municipality;
- recommend appropriate changes to the municipality's budget and revenue-raising measures that will give effect to the recovery plan; and
- submit these to the MEC for Finance in the province.

The MEC for Finance will then submit a copy of any request and determinations to the municipality, Minister responsible for local government and Minister of Finance.

## **2.5.2 Interventions by national government**

It is important to note that national government also regulates provincial government in its exercise of section 139. When a provincial executive fails, section 139(7) empowers national government to intervene in a municipality that

has failed to approve a budget or any revenue-raising measures to necessary to give effect to the budget; meet its obligations to provide basic services, or able to meet its financial commitments.

The White Paper on Local Government also notes however that whilst intervention into municipalities is primarily a provincial government responsibility, national government may need to intervene together with provincial government, or when provincial government fails to intervene.

### **2.5.3 Guiding principles for interventions**

It must be understood that the ultimate purpose of a section 139 intervention is to assist a municipality to be functional, sustainable and self-sufficient so that it can fulfil its developmental mandate as set out in the Constitution. The White Paper sets out the following principles for national guidelines for intervention:

- a. Steps should be taken to remove the need for intervention including:
  - I. Adequate training, capacity building, funding and support mechanisms;
  - II. Good monitoring and information systems to indicate potential problems before they become crises so that municipalities can take their own corrective measures where problems arise.
- b. Clear responsibility and financial liability for mismanagement, maladministration or fraud must be established with rapid procedures for prosecuting those responsible at both the political and administrative level.
- c. National and provincial government regulate executive authority of municipalities in terms of section 155(7), with this being sufficient in most cases to avoid intervention.
- d. Where intervention is required the level of intervention is appropriate to context, ranging from support and advice through issuing directives for specific actions. To the assumption of executive authority for a municipal function by another sphere of government.
- e. Loss of executive power of the municipal council should only occur where all other mechanisms to improve the situation have failed.
- f. Loss of executive power should happen in a way which will lead to the re-establishment of the municipal council's executive power as soon as possible.



The White Paper emphasises that powers of intervention should be seen as a measure of last resort, where the problem cannot be resolved through ordinary intergovernmental processes. In the interest of ensuring the stabilisation of the local government environment interventions should be exceptional and not regular occurrences.

### **3 PROBLEM STATEMENT**

Local government has been allocated developmental responsibilities as the sphere closest to the people which is best placed to respond to the basic needs of communities and to promote their social and economic development. It is expected to do this on its own initiative as well as through participating in national and provincial development programmes. While local government is a distinct sphere with its own executive and legislative responsibilities, a municipality cannot operate independently without the cooperation and support of the provincial and national spheres of government. It is subject to provincial and national legislation.

Section 154 (1) of the Constitution stipulates that national and provincial government must support and strengthen the capacity of municipalities to manage their own affairs, and exercise their powers and perform their functions. Also, section 139 enables provincial government to intervene in the affairs of a municipality when it fails to perform its executive functions including delivering basic services, approving a budget and finding itself in a financial crisis resulting in a breach of its obligations to deliver services or meet its financial commitments. This therefore raises the need for national and provincial government to monitor the performance of municipalities to be in a position to provide support where it is needed and to intervene where support has failed. The problem statement for municipal support and intervention over the last 15 year is discussed below:

#### ***Monitoring has not been consistent***

As discussed in the last section, monitoring of local government happens in terms of sections 46, 47 and 48 of the Municipal Systems Act as well as in terms of the MFMA. Monitoring in terms of the MFMA has been consistent and continuously rigorous while monitoring in terms of the Systems Act has been inconsistent.

Municipalities, MECs responsible for local government and the Minister responsible for local government are required to prepare performance reports annually. Some of the challenges with the tabling of section 46 reports include the inability of some municipalities to produce or compile and a lack proper systems to monitor organisational performance. As a result, provincial and national government has struggled to find accurate, informed data on the status of municipalities. In addition, other priorities such as the Local Government Turnaround Strategy processes took over the reporting processes and the section 46 reports took a back seat during that time.

The section 46 reports need to use a common set of criteria and indicators to enable a comparative analysis of municipal performance and understand municipal support needs and where a section 139 intervention may be required. DCoG has been in a process of drafting new local government indicators and these have not been published as yet and used to inform the section 47 reports of municipalities. This has impacted the monitoring role of province as well as national government.

### ***Support has been fragmented and therefore not impacted municipal performance***

Municipal Support and Intervention over the past 15 years has been fragmented and often the basis for it was unclear. There has been no generic guide or collectively shared approach in terms of timing, resourcing and implementation of municipal support and intervention.

Past attempts to improve the performance of municipalities were based on the assumption that all municipalities were uniform entities. There has since been an appreciation for the fact that municipalities have different capacities and their social and economic contexts vary. Efforts to provide support to local government need to be conducive to the different contexts prevailing in municipalities.

Chapter 9 of the MTSF 2014 – 2019 highlights that despite more than R1 billion per annum being spent on municipal support and capacity building, municipal performance is far from optimal in a number of instances. The MTSF therefore calls on national and provincial departments and entities impacting on local government to cooperate better and act with greater synergy in providing

oversight and support to the local sphere. Moreover, provincial departments of local government will need to improve the manner in which they are structured so as to ensure that they are better able to monitor and support local government.

The effectiveness of provincial support, monitoring and intervention initiatives is undermined by certain factors which include, the fragmentation of support, monitoring and intervention responsibility among sector departments, the complexity of the legislative framework, bias towards a compliance-based checklist approach to monitoring, inadequate strategic understanding of the local government environment, limited provincial capacity to support municipalities to secure long-term sustainability, and the lack of municipal buy-in with regard to support, monitoring and intervention initiatives.

### ***Role of district municipalities in providing support has been weak***

The support role of districts has been limited to the organising of training and capacity building and at times, the deployment and sharing of skilled professionals however the nature of the support that has been required is often not in the realm of training. Districts are arguably ill-equipped, and sometimes too close to the problem, to provide the support and potential intervention required. These support needs have tended to fall on national and provincial government.

### ***Interventions are not preceded by monitoring and support***

It has been argued that provinces do not in general fulfil their role of monitoring and supporting local government effectively as required in terms of section 154 of the Constitution. Ideally section 139 interventions in municipalities should be a measure of last resort undertaken only when provincial support to municipalities has failed. In most cases, provincial intervention in municipalities is understood to be a punitive rather than the remedial action to address the failure of the executive obligation.

The White Paper on Local Government makes it clear that fair exercise of intervention powers requires a level of uniformity across the country, and that national guideline on the process of intervention need to be developed along with a detailed legal framework which governs events when a municipality

encounters financial difficulty. The Intergovernmental Monitoring, Support and Intervention Bill of 2013 was drafted with the intention of providing for uniform standards in the application of section 139, but also for support and intervention measures to strengthen the capacity and performance of each sphere to fulfil its executive obligations as well as stabilise the interventions environment through clearer procedures and processes for undertaking both S100 and S139 interventions as provided for in the Constitution. Despite being developed based on lessons from practice and through consultation with all key stakeholders, this Bill has not yet been promulgated.

The problem of coordination and alignment of support to and intervention in local government remains a challenge. SALGA therefore identified the need for a coherent framework that would guide how monitoring, support and intervention should take place in the local government sector.

## **4 AN APPROACH TO DIFFERENTIATING MUNICIPALITIES**

Municipalities require support for different reasons. Different types of support are needed to address these reasons. The reasons for requiring support are determined by factors either inherent to the municipality or the leadership, management or technical capacity. To understand what type of support a municipality requires, therefore, it is necessary to differentiate municipalities in terms of context and performance.

### ***Context***

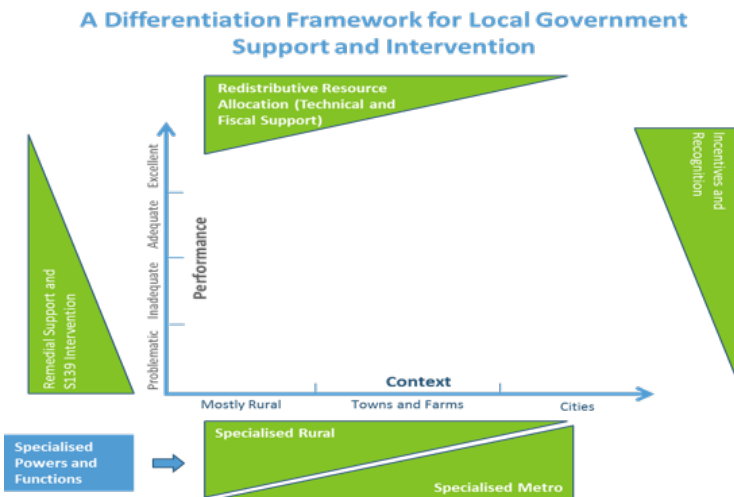
Municipalities differ in terms of their economies, social, spatial and geographic factors. These are often outside the immediate control of the municipality and are best described as its context. Municipalities that operate in spaces historically contained in the former homeland system do not have a history of local government and this legacy has affected the new institutions established. The organisational legacy of local government institutions is arguably something that must also be taken into account in understanding its context. Other contextual factors that constrain local government include:

## MUNICIPAL SUPPORT AND INTERVENTION FRAMEWORK

- Only a small number or percentage of high income households
- High Population growth and in-migration
- Service backlogs
- High proportion of the municipal population living in informal or traditional settlements.
- Challenging topography upon which to provide infrastructure.

### **Performance**

Municipalities vary significantly in their performance, irrespective of their context. Performance is affected by the financial and administrative capacity applied by the municipality, but certainly is not determined by it. Performance is as affected, if not more, by leadership and management. There are examples of small rural municipalities delivering quality services, achieving fairly accountable governance and clean administration as well as maintaining sound relationships with communities and internal stakeholders. Conversely there are examples of economically powerful metros that are not doing so.



**Figure 2: A Framework for Differentiation for support and intervention**

## 4.1 DIFFERENTIATING BY CONTEXT<sup>33</sup>

There are two primary arms of differentiation within context in the local government sector. Firstly using redistributive resource allocation such as the Equitable Share and the Municipal Infrastructure Grant, targeting mostly on the proportion of poor un-serviced households. The sector should consider how it can improve differentiation by context for resource distribution and financial support. This would include incorporating other factors in determining resource allocation such as those outlined above, which affect the cost to municipalities of performing their functions and serving households.

Secondly, the allocation of powers and functions should be made based on the differing contexts of municipalities. To some extent this has been occurring, with the devolution of the built environment function to cities. Service delivery arrangements could be further differentiated in non-metro municipalities as appropriate. However, there should be clarity on these powers and functions to avoid an overreliance on co-operative arrangements between municipalities, particularly districts and locals.

Differentiation by context should consider the following:

- a. The underlying strength of the municipality, based on the following criteria:
  - a. The underlying economic circumstances of the municipality. These circumstances determine the municipality's ability to be independent. Municipalities with strong economies can raise their own revenue and cover a substantial part of their operating cost, raise their own capital and attract, recruit and retain skilled and experienced staff.
  - b. The size of the municipality, in terms of population. Size plays a part in determining the municipality's ability to be autonomous as municipalities with larger populations have more money and more staff, which suggest that they do not need as much support as smaller municipalities. Larger size also leads to a reduced requirement for co-ordination between municipalities.

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33 PDG for DCOG (2014) (2) Review of District Municipalities: Synthesis and Summary Report on options to restructure and strengthen districts and their implications.

- c. Municipal density, as it is typically easier to support a municipal population that is highly concentrated.
- b. For the allocation of powers and functions:
  - a. The ability of the municipality to attract skills.
  - b. Cross boundary infrastructure, considering that the need for cooperation increases where municipal infrastructure crosses municipal boundaries, requiring more support.
  - c. Own source revenue, which refers to a municipality's ability to generate its own revenue suggests that the municipality is both financially sound, has good systems in place and has a good relationship with its customers, who are willing to pay for services.

### ***Redistributive Resource Allocation***

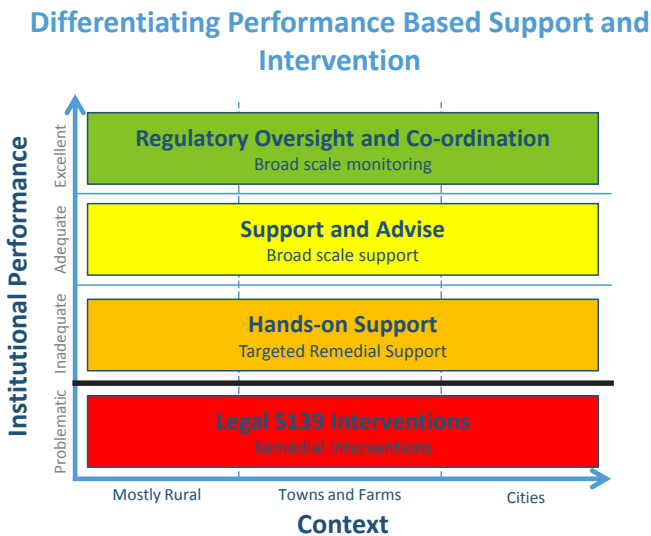
Fiscal redistribution mechanisms, such as the Equitable Share and the Municipal Infrastructure Grant (MIG) currently rely on allocating funds by targeting based on the context of a municipality, mostly proportion of poor unserved households. There is a case for improving how both the Equitable Share, MIG and other infrastructure grants can address gaps in financing municipalities and infrastructure. However, further differentiation in the fiscal system needs to be dealt with through the fiscal framework.

### ***Powers & Functions and Service Delivery Arrangements***

The demand for municipal services also varies by context. While there is a core set of municipal services applicable to all municipalities, cities face the pressure of rapid urbanisation, creating demand for housing opportunities integrated efficiently into economic activity. Over the last few years consensus has been achieved on devolving the built environment functions, such as housing and public transport to cities. The National Land Transport Act (2009) as well as recent developments with housing accreditation, made significant progress in this regard. In rural areas the principle of specialised services can also apply. Central to the review of district municipalities is the idea that the structure of the local government system, governance and service delivery arrangements can be differentiated by context, as is already done with the creation of single tier status for metropolitan municipalities.

## 4.2 DIFFERENTIATION BY PERFORMANCE

A system of profiling municipalities for differing remedial support and intervention responses needs to differentiate municipalities on the basis of performance. However, it is also anticipated that there will be certain structural support programmes (non-remedial in nature) aimed at supporting municipalities based on their context. Historical examples of such programmes are the ISRDP and URP. A more recent example is the City Support Programme.



**Figure 3:** Differentiating performance-based support and intervention

In relation to the provision of remedial support, it is proposed that municipal performance is categorised in four different categories warranting national and provincial government playing a different role:

- An oversight and regulatory role for municipalities performing excellently.
- An additional support and advisory role for municipalities performing better than adequately.
- A further hands-on support role for municipalities performing inadequately



- An interventionist role where performance warrants legal intervention; after hands on support has failed.

A municipality may fall into a particular category only for specific functions warranting support. For example a municipality may be regarded as adequate on financial management, yet inadequate on solid waste services and require intervention in terms of water services.

Good, regular and reliable sources of data on municipal performance are critical for a profiling system to guide support. This requires the development and co-ordination of regulatory systems for municipal functions, regular collection of accurately reported data and the determining of appropriate, and transparent thresholds for triggered self-selection into the different segmentation bands. The grant system should be explored for incentivizing accurate, complete and regular reporting and consequences for non-compliance.

Government's new Back to Basics approach aligns with this support framework. The back to basics approach to support sets out a differentiated approach based on four priorities:

1. For municipalities in a dysfunctional state, to perform the basic functions of local government through the enforcement of current policy and legislation, systematic management of performance and accountability and ensuring consequences for underperformance. This priority aligns with "Hands-on support" as outlined in the support framework;
2. Support functional municipalities that are not doing enough in critical areas of services to progress to a higher path, through building strong municipal administrative systems and process and the creation of real time monitoring systems. This priority aligns to "Support and Advise" in the support framework;
3. Incentivise municipalities that are performing well by giving them greater flexibility and control over their resources and grants. This aligns with the "Regulatory Oversight and Monitoring" in the above framework, where good performing municipalities are only subject to broad scale oversight;
4. A targeted and vigorous response to corruption and fraud. This has no direct alignment to the above framework.

### **4.3 INCENTIVES AND RECOGNITION**

It is important that a system of support and intervention should not incentivise poor performance. This means that additional financial resources should not be provided to municipalities on the basis that they are performing poorly. Where additional funding is to be provided, this should be in kind, spent on behalf of the municipality by another sphere or agency of government.

In addition to support and intervention measures, there should be a system of incentivising and recognising good performance. This also needs to be taken up within the broader fiscal framework, but non-financial recognition can also be pursued.

## **5 A FRAMEWORK FOR MONITORING MUNICIPAL PERFORMANCE**

Monitoring is a key step in any activity which is able to give information on whether progress is being made. It is therefore important that when delivering on the objects of local government, performance is monitored. Local government has a particularly complex set of institutional arrangements, involving national sector departments and transversal departments with local government responsibilities, nine provinces with oversight responsibilities and three categories of municipalities. This makes monitoring local government a very complex challenge.

As discussed in section 2.3 earlier, monitoring of municipalities currently happens at different levels and these are discussed below and sections 46 – 48 of the Municipal Systems Act provide assistance in this regard. Municipalities have the primary responsibility to ensure that they fulfil their obligations as set out in section 152 of the Constitution. A municipality must have an early warning monitoring and reporting system to first alert itself, then the province and the Minister of any possible or impending non-fulfilment of an executive obligation. The municipality is expected to prepare an annual report reflecting on its performance in accordance with section 46 of the Municipal Systems Act. This Act further provides for the monitoring of municipalities by provincial government

as well as the establishment of national minimum standards for municipalities by national government. This appropriately places the responsibility of support and monitoring of performance by municipalities in the hands of provincial and national government.

There are a few actions that require attention in ensuring that monitoring of municipal performance is done appropriately to identify municipalities that require support in terms of section 154 of the Constitution. These are discussed below.

## **5.1 DEVELOP A COHERENT M&E FRAMEWORK FOR LOCAL GOVERNMENT**

Led by DCoG and DPME, the sector should have a coherent local government monitoring and evaluation framework, covering all stakeholders in the sector. The M&E framework must recognise the mandates of DCOG, NT, DPME; transversal departments; sector departments; provinces; municipalities; SALGA as well as design M&E arrangements to fulfil these mandates. Such M&E framework should inevitably ease the reporting burden faced by municipalities.

## **5.2 DEVELOP A SET OF COMMON INDICATORS FOR LOCAL GOVERNMENT**

The general key performance indicators were first published in 2001 in accordance with the Municipal Systems Act. The local government system has developed since then and there has been a number of programmes aimed at supporting municipalities requiring them to report on specific indicators over and above these indicators. More recently, the Back to Basics Approach also uses key performance indicators to assess the viability of municipalities.

It is important to have a common set of indicators against which performance will be monitored. It is understood that there are draft local government indicators that are meant to update the 2001 general key performance indicators. Whatever the indicators for local government are, these will need to be consulted on extensively with local government, National Treasury as well as sector departments before they are used.

## 5.3 DEVELOP AN INTEGRATED MONITORING SYSTEM

There is limited integration across sectors that should be sharing information with one another about local government. Human settlements, local government and water are closely related sectors that should be sharing information with each other though there is little evidence that this is done in practice<sup>34</sup>. It is important that the anticipated M&E framework does not perpetuate the current reality of a lack of integration of systems within sectors leading to duplication of information captured in systems within the sector and a reporting burden on municipalities. The development of an integrated local government monitoring system should be done in partnership with SALGA and member municipalities from conceptualisation to development to ensure that such systems receive the support from the municipalities and provinces that they are supposed to work for. This system should generate municipal performance reports at all levels and indicate support needs.

Local government needs better coordinated and aligned service delivery information and data sets from Statistics South Africa (StatsSA). This is particularly the case for household services and associated backlogs. As soon as the performance indicators are agreed and developed, it is important that there is a performance information system developed to enable reporting against local government performance indicators at the provincial level.

This system should include the MFMA requirements as detailed in section 2.3.1 above along with the other reporting requirements in terms of the indicators. This system needs to be operational at municipal, provincial and national levels.

### 5.3.1 Municipal level

A municipality must have a performance management system that will provide it with information on its performance to enable proper management of the institution. This system should enable it to compile its performance report in terms of section 46 of the Municipal Systems Act. A consolidated report by a province is then compiled in accordance with section 47.

34 .....  
PDG for DCOG, 2014(1) reference here

### **5.3.2 Provincial level**

The section 47 report is important in that it identifies municipalities in a province which are under-performing. The warning signs therefore come out through this report and it also must detail the support that will be provided to struggling municipalities in the province. As part of its obligations in terms of monitoring and supporting municipalities, provincial government should have a system in place, as required by section 105 of the Municipal Systems Act, to monitor the performance of local government. This monitoring system should be able to provide an indication of early warning signs that the municipality may be experiencing challenges. Early indications of a municipality that may be beginning to experience difficulties could include<sup>35</sup>:

- The collection rate at the municipality drops below the norm;
- The municipality is behind in terms of addressing audit findings made against it by the Auditor General;
- There is no Municipal Governance Action Plan in place; and
- Management and/or governance issues start to become prevalent at the municipality.

These or similar instances may be indicative of the need for the province to probe into the causes of the difficulties in a municipality. In its probe, the province should ensure that it considers whether or not there are underlying governance issues that may be responsible for the difficulties experienced by the municipality.

Should the provincial monitoring system begin to detect more serious issues such as drastic changes in municipal performance or discrepancies which may be discovered through provincial oversight of municipal finance (MPAC and Audit) and Risk Committees, among others, the province should along with other relevant stakeholders including organised local government be able to hold senior management and political leadership in the municipality accountable for the changes that are evident in the municipality.

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35 reference

In light of the province's role vis-à-vis local government, it is absolutely critical that in instances where discrepancies become evident that the province act as soon as the discrepancies are evident by probing into the basis for the discrepancies and holding the municipality accountable for the discrepancies.

Not only will a municipal performance information system enable the compilation of a section 47 report, but it will also enable the provincial departments of CoGTA to effectively monitor municipalities therefore trigger the support requirements of municipalities much earlier. Much as the section 47 Report is a consolidation of municipal annual performance reports (i.e. section 46 Reports), it is therefore able to detail:

- a. Municipalities in the province differentiated by performance against the common set of indicators. The report should categorise municipalities according to their performance in order to provide appropriate support to them:
  - Excellent – continued monitoring
  - Adequate – support and advice
  - Inadequate – 'hands-on' support
  - Problematic – section 139 intervention
- b. The type of support required by and enlisted for municipalities whose performance has been identified as inadequate and therefore needing 'hands-on' support from specific sector departments; and
- c. Progress on the support already identified and provided either that year or the previous year(s) and the impact it has made on the municipalities receiving it;
- d. Identify 'problematic' municipalities who have been supported but support seems to be failing and a different course of action may have to be taken to get them back on track in terms of their mandate, including flagging them for a section 139 intervention.

### **5.3.3 National level**

Enabled by good and reliable data, the section 48 report will then detail the state of local government in the country and also identify or inform support to local

government from both national and provincial government.

The DPME has also developed and is refining the Local Government Management Improvement Model (LGMIM) assessment tool to measure the institutional performance of municipalities across a 6 key performance areas. The model looks at a municipality from different angles at the same time, thus adopting a holistic approach to institutional performance analysis. The performance areas are further broken down into Management Performance Standards against which performance is assessed. These are:

- Integrated Planning and Implementation
- Human Resource Management
- Financial Management
- Service Delivery
- Community Engagement/Participation
- Governance

It is important that there is coherence between the draft local government indicators, the Back to Basics Approach and the LGMIN assessment tool.

## **5.4 REGULAR REPORTING FOR EFFECTIVE MONITORING**

While producing the reports is periodic, monitoring is an ongoing and continuous exercise. The reports referred to above are currently produced on an annual basis, however it is important that there should be more regular in-year reports that provide a snapshot of performance at regular intervals. These should culminate in an annual report at the end of the financial year. There is a need therefore for quarterly performance reports on the same information and data that is reported on in an annual performance report. The proposal is to formally introduce section 46 quarterly reports to be submitted to council and provincial CoGTA. The second quarter report will include the mid-year section 72 (MFMA financial assessment) report that municipalities already submit to council and the provincial treasury.

Once the indicators are agreed upon, they must form part of the section 46 reports and reported on a similar basis as the MFMA section 72 reports. It is on this information that early warning signs of underperformance and therefore a need for support can be detected sooner than after a year of underperformance. This Framework is not suggesting an additional reporting burden on municipalities, but a more streamlined approach to reporting that will enable it to monitor its own performance and highlight its support needs to provincial government before its capacity constraints become entrenched.

## **5.5 DEVELOP CAPACITY TO MONITOR LOCAL GOVERNMENT PERFORMANCE**

The Minister is also required by the Act in terms of section 48 to publish a report on the performance of municipalities in terms of general key performance indicators and submit to Parliament. Similarly, this requires a monitoring system that will enable municipal data emanating from the section 46 reports to be captured and analysed against key performance indicators. Previous research into the state and use of M&E in the local government sector<sup>36</sup> suggests that the utilisation of monitoring and evaluation information is low.

The role of monitoring local government rests primarily with DCOG both nationally and provincially. National Treasury as well as the provincial treasuries also play an important role in monitoring the finances of municipalities to ensure that they are able to meet their obligations to deliver services and financial commitments. Finally, there are sector departments who have a regulatory responsibility towards the delivery of specific services in municipalities. The monitoring of municipalities is therefore a complex exercise but it is the Minister responsible for local government that can ultimately intervene when there is an executive failure in a municipality.

There is a need for specialised monitoring and evaluation capacity of local government to be located at the strategic centre and generalised, mainstreamed and decentralised monitoring and evaluation capacity in branches and programmes of DCOG. At the moment DPME is responsible for monitoring and evaluation nationally and the Offices of the Premier are responsible in

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36 Reference here



provinces. However, it will be important to clarify roles and responsibility for monitoring local government. If the responsibility to intervene in municipalities rests with the MEC responsible for local government and the Minister, then the responsibility to monitor local government performance should also rest with them. It is important that the role of DPME in monitoring local government is clarified and aligned to DCOG's role in this regard.

Importantly, the provincial and national DCOG needs to have the requisite capacity to monitor local government as well as the clout to coordinate support initiatives of sector departments to municipalities. It is therefore imperative that at the national level DCOG coordinates the support needs to departments in collaboration with DPME and National Treasury. At the provincial level, support needs of municipalities should be coordinated with the Offices of the Premier and provincial treasuries.

## **6 A FRAMEWORK FOR SUPPORT TO MUNICIPALITIES**

Both the Constitution and the Systems Act provide a basis for national and provincial government to support municipalities. Section 4 above provides historical overview of support for municipalities throughout the period of democratic local government. The Constitution provides that national and provincial government must support and strengthen the capacity of municipalities to manage their own affairs, exercise their powers and perform their functions.

Both national and provincial government have a constitutional and legislative duty to support and strengthen the capacity of municipalities to manage their own affairs. The monitoring reports should identify municipalities that require support and that support should be given in fulfilment of section 154 of the Constitution.

### **6.1 TYPES OF SUPPORT**

The different types of support to municipalities, what they could include and when they would be appropriate is set out below:

### **6.1.1 Broad-scale programmatic support**

There is still a case for broad-scale support to be provided to all municipalities, based on functional programmes, whether this is support with regard to water and sanitation, local economic development and anti-corruption. This level of generalised support often takes the form of guidelines and training, tools and other resources (including grants) as well as coaching and mentoring.

### **6.1.2 Targeted remedial support**

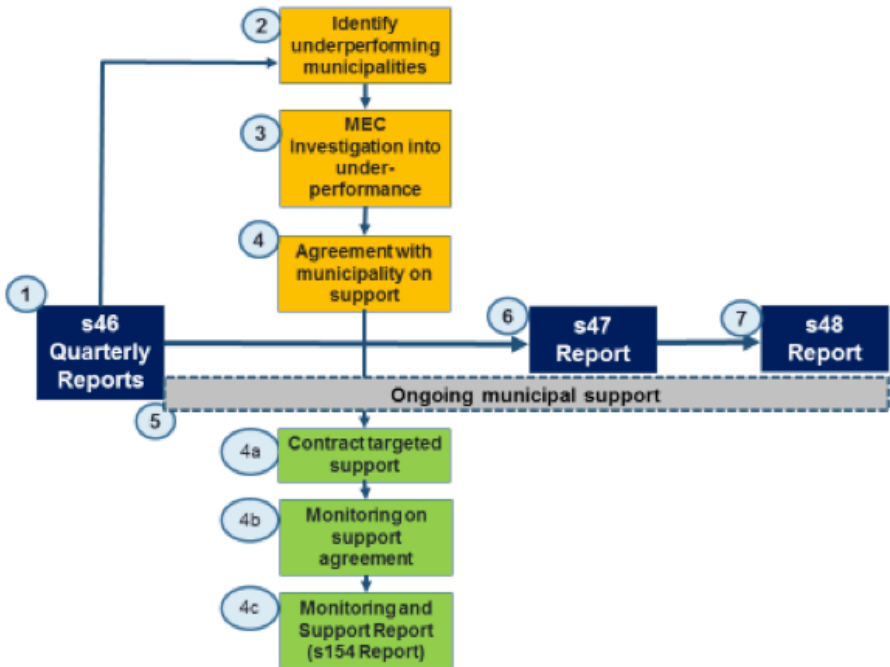
Guided by a system of monitoring the performance of all municipalities on appropriate regulatory indicators and early warning indicators, should be a system that targets short-term remedial support to municipalities in distress, with the intention of pre-empting and preventing legal intervention. The underlying reasons for these forms of distress often lie in the realm of leadership, governance and management, most often in the political administrative interface. It is likely that remedial support will need to be provided in this realm.

The province should work with the municipality in developing a targeted support plan which may include professional advice, deployment of staff from the province to the municipality as well as identify specific steps/actions which the municipality would need to take to address the discrepancy that has been picked up, a timeframe within which it should be addressed and a report back provided to the province.

It is proposed that multi-disciplinary national and provincial response teams are established to provide targeted support. These teams should be constituted of former mayors, municipal managers, CFOs and technical services managers. They should have the requisite experience in local government leadership and management and be able to respond to the issues that need to be addressed in municipalities needing support. The support process will need contracting with the current leadership and management of the municipality. While the response teams should report progress to the municipal Council of the municipality receiving support, they should be accountable to provincial leadership structure constituted by DCOG, Provincial Treasury and the Office of the Premier. At the national level, the leadership structure should be constituted by national DCOG, National Treasury and DPME.

## 6.2 THE PROPOSED MUNICIPAL SUPPORT PROCESS

The diagram below proposes a process of identifying and providing support to a municipality identified as underperforming.



**Figure 4:** Municipal support process

The basis of support is the performance reports in terms of section 46 and 47 of the Municipal Systems Act. To ensure effective monitoring and support from provincial and national government, the section 46 report needs to be broken into quarterly chunks that are submitted to provincial CoGTA. If a municipality is identified as underperforming, the following process must unfold to facilitate support.

## 6.2.1 The MEC’s investigation into underperformance

The MEC responsible for local government must initiate an investigation into the reasons to any municipality that is identified as underperforming through the proposed section 46 quarterly reports. This involves the MEC meeting with the mayor of the identified municipality to further understand the reasons. This investigation should be conducted solely for the purposes of providing support to a municipality. It is important to establish whether the municipality needs support or merely to change a particular way in which it is conducting its business.

## 6.2.2 Agreement on action or support needs

The MEC and municipality must agree whether what the municipality needs is to change the way it is conducting its business or requires support from the province to address the problem. The MEC and the municipality will also agree on roles and responsibilities regarding the support to be provided to the municipality.

## 6.2.3 Contracting the targeted support

Following an investigation by the MEC into the reasons for underperformance and an agreement with the municipality on support needs, a targeted support process is then initiated and led by DCOG in the province. The diagram below illustrates the process to be followed in providing targeted support to a municipality that has been identified as underperforming.



**Figure 5:** Process for supporting municipalities identified as underperforming

## ***Conducting a Diagnostic***

Should a municipality require outside support to address its issue, it is important that a diagnostic is conducted on the specific targeted support that will remedy the situation in a municipality. The Diagnostic Report should detail the following:

- Problem to be solved by the support;
- Support needed or action required;
- Skills required (leadership, administrative or technical);
- Roles and responsibilities for the municipality during the support process;
- Roles and responsibilities for the support team;
- Critical success factors for the support; and
- Timeframes for the support.

This report should be presented to the municipal Council as well as the MEC responsible for local government. It will inform the brief of the team that will assist the municipality to address the identified problems.

## ***Implementation of solution***

A team with the required skills will then be sent to the municipality to provide the required support in accordance to the brief. It is important that a baseline situation is established and recorded before support intervention. The solution identified by the Diagnostic Report will then be implemented in partnership with the municipality whether this is advice, training, technical support. It is important to note that depending on the support required, the team could be all government officials from a sector department and a team external to government with the requisite skills.

There should be regular reports first to the municipality and then to the MEC on the progress of the support process in the municipality.

## **6.2.4 Municipal Support Report**

To ensure that that where needed support is rendered, this Framework proposes that provincial and national government should compile a support report that will be in compliance with the requirement of section 154 of the Constitution. The Municipal Support Report must detail the support national or provincial government has given to a municipality to improve areas of underperformance. At the end of the support intervention, the response team must compile the report detailing the support given, how the problem was addressed and recommendations to the municipality. The municipality must also produce it won report on how it will sustain the change.

# **7 A FRAMEWORK FOR MUNICIPAL INTERVENTIONS**

The proposed framework for interventions uses the Mquma Judgement which decided upon an intervention taken by the Eastern Cape provincial executive as a basis. In this case, the court ruled that the purpose of section 139(1) is to enable a provincial executive to take appropriate steps that are necessary to place a municipality in a position to fulfil its executive obligations. Therefore, a provincial executive must intervene in a manner that is appropriate where there has been a failure to fulfil an executive obligation. The judgement explains what is meant by appropriate steps and suggests that they relate to the balancing of the integrity of local government as per Chapter 3 of the Constitution against the constitutional requirement for effective government.<sup>37</sup>

The Constitution allows for 3 remedies available to a provincial executive when there has been a failure by a municipality to fulfil an executive obligation, and they are:

- a. Issue directive to the municipal council describing the extent of the failure to meet obligations and stating steps required to meet its obligations;
- b. Assume responsibility for the relevant obligation in that municipality to:
  - maintain or meet essential national or minim standards; or

37 Mquma Local Municipality v Premier of the Eastern Cape (2009), p62

- prevent the municipality from taking unreasonable action that is prejudicial to the interests of another municipality or to the province; or
  - to maintain economic unity; or
- c. In exceptional circumstances that warrant such a step, dissolve the municipal council and appoint an administrator until a new council has been declared elected.

The Mquma Judgement suggests that these steps do not necessarily have to follow one another. However, the circumstances under which a municipality can be dissolved would indeed need to be so dire that the provincial executive would be left with no option but to dissolve the municipal council. Dissolution is only appropriate if the executive obligation cannot be achieved otherwise than by dissolution of the existing council and replacing it with an administrator until a new council has been elected<sup>38</sup>. An intervention in terms of section 139(1)(c) requires exceptional circumstances to prevail and has been interpreted to mean that the first two remedies must have failed before dissolving a municipality or the circumstances must be “markedly unusual or specially different.”

Importantly though, the municipality must be able to fulfil the obligation after the intervention is over. It would serve no purpose if it cannot resolve the problem at hand, i.e. if the new council also cannot resolve the problem. The purpose of a section 139 intervention therefore is to assist a municipality to become sustainable and self-sufficient, able to perform the functions assigned to it by the Constitution and other legislation efficiently and effectively. The intervention is intended as a curative measure to assist struggling municipalities rather than a punitive measure. It follows therefore, that there should be a broad agreement that both national and provincial government are committed to ensuring the stabilisation of the local government sector to such an extent that interventions are exceptional and not regular occurrences.

Interventions into municipalities are primarily a provincial government responsibility. National government may however need to intervene in a municipality together with provincial government, or when provincial government fails to intervene.

.....  
38

Ibid., p67

## 7.1 GUIDELINES ON INTERVENTIONS

In 2007, DCOG (then DPLG) developed guidelines on the application of section 100 and section 139 of the Constitution. While these guidelines have been useful, there remains a need for further guidance on the application of section 139 of the constitution to create consistency and certainty. Therefore national and provincial government are encouraged to develop manuals<sup>39</sup> and guidelines on the application of s139. These should set out the guiding principles for the province, their working relationship with key role-players including organised local government in each province.

It should also be noted that there is a process underway to legislate for the municipal monitoring, support and interventions<sup>40</sup>. The current guidelines<sup>41</sup> on the application of section 139 interventions clearly sets out the process of s139 interventions in great detail. The provincial monitoring system is meant to detect an imminent failure by the municipality to fulfil an executive obligation and/or notes any of the following changes:

- Drop in cash level, i.e. the municipality does not have cash to cover monthly expenses;
- Low levels to no debt collection by the municipality; and
- Services not being delivered by the municipality.

Any of these should raise an alarm to the province around serious problems which may be evident at the municipality.

Each province should as soon as it becomes aware of these changes determine what has caused the changes in the municipality and what is being done by the municipality to address the problem. A province should also ascertain what support is required by the municipality to address the situation. Should the situation become dire, the province should write a report to the provincial executive advising it of the situation.

39 Eastern Cape and KZN have developed these guidelines and have found them to be useful in terms of creating a common approach and understanding in terms of the implementation of s139 in their provinces

40 Intergovernmental Monitoring, Support and Interventions Bill [May 2013]

41 <http://www.cogta.gov.za>



It should also be noted that not every situation justifies intervention there are certain exceptions. De Visser<sup>42</sup>, quoted in another article, makes an example that an exception will be in a case where there is a labour dispute or legitimate strike of municipal workers, which results in the suspension of municipal services. In this case the municipal council may not have a choice but to suspend services, De Visser argues.

## **7.2 IMPROVING THE PROCESS OF INTERVENTIONS**

To bring about uniformity and predictability in the process of interventions in municipalities, a few activities will need to be undertaken by national and provincial government. These are:

### **7.2.1 A set of minimum triggers**

Section 139 provides allows for discretion with regard to both the form of the intervention and the extent to which the intervention takes place. Research informing this Framework shows that the manner in which interventions have taken place has been inconsistent. In order to create certainty and consistency and enable provinces to ascertain when the circumstance would be appropriate for an s139 intervention, national DCOG should develop nationally published standards to provide a consistent set of minimum triggers that would need to be met before a province could undertake an intervention.

These national standards should incorporate precedent-setting court judgements such as Overberg District Municipality case in which the court found that in terms of s139(4) the provincial cabinet has a wide discretion to take any appropriate steps to ensure approval of the budget, including dissolving the council. In this case the evidence showed that the council was willing and able to approve its annual budget but was prevented from doing so before 1 July 2010 by factors beyond its control. In the circumstances, so both courts held, dissolution of the council was not the appropriate step.

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42 De Visser J (1999) "A legal analysis of Provincial intervention in a municipality" Cape Town quoted in R. Baatjies (2002) Thesis on Interventions Assessment

A nationally informed comprehensive set of triggers would go a long way towards creating certainty and predictability in terms of the triggers for an intervention.

## **7.2.2 Identify statutory obligations that can trigger and intervention**

Before the provincial executive can use any of its intervention powers, it must identify the statutory obligation that places a duty on the municipality to fulfil a certain executive obligation. This is absolutely essential to avoid the arbitrary triggering of s139 intervention.

The identification of the executive obligation should then determine the scope of the possible assumption of responsibility by the provincial executive. The provincial executive can only assume responsibility for the specific functional area that is linked to the executive obligation that was identified. Powers that fall outside the scope of the identified executive obligation remain the prerogative of the municipal council.

Once the triggers for an intervention have been set and the statutory obligation that will trigger an intervention has been identified, the process of intervention should also be clear as a measure of last resort undertaken when support has failed in a municipality.

## **7.2.3 Support must have failed**

Prior to making a proposal for an intervention in terms of s139, the MEC responsible for local government in the province should table a Municipal Support Report outlining the support which has been provided by the province to the municipality in terms of section 154 of the Constitution. As discussed in the preceding section, this report should detail efforts by the province to address the situation at hand for which an intervention is contemplated. It should give a clear account of the support provided that was provided and evidence that despite the support, the municipality still failed to address the problem. It is also important that all affected stakeholders including SALGA and the affected municipalities should agree on the need for the section 139 proposed intervention. This report should therefore provide a strong basis for an intervention.

## **7.2.4 The intervention should not be open-ended**

To ensure that the capacity of a municipality is built, it is important that s139 interventions are not open-ended. The intention of an intervention should not be to disempower a municipality but rather to strengthen it to be able to manage its affairs, carry out its duties and perform its functions. When an intervention goes on for too long, it runs the risk of weakening the municipality and this will be contrary to the sentiment of section 154 of the Constitution.

The life-cycle of an intervention should commence with a diagnosis, resourcing, reporting progress, developing a sustainability plan and the end. The diagram below gives an overview of an intervention once it is undertaken.



**Figure 6:** *Process for an intervention*

### **Diagnostic**

There is currently no consistent diagnostic process that is undertaken to inform whether an intervention should be instituted in a municipality. As a result, the basis on which interventions have been applied has not always been based on a proper diagnosis of challenges encountered within the affected municipalities. As recommended above, prior to the decision to institute an intervention, the MEC responsible for local government should table a section 154 report to the provincial executive setting out, among others:

- the nature of the problem at the municipality;

- steps taken by the municipality and the province to address the problem;
- support rendered by the province and other stakeholders; and
- improvements achieved or continued failure after support was rendered.

In undertaking a diagnosis to understand the challenges at a municipality, it is important to bear in mind that there will be little that provincial support or new leadership can achieve when there is a deep-set maladministration in a municipality. Interventions in municipalities where there is political infighting on the council or between the members of the council and members of the administration have shown that s139 interventions do little to resolve the conflict. In instances such as these, it is recommended that it would be best for the political parties to engage in an intervention and play a role in addressing the political conflict in the municipality at the provincial level.

In the event of an Administrator being brought into the municipality, it is important for the administrator to rapidly (preferably within the first 3 weeks of coming into the municipality), undertake a diagnosis as well to identify the problems that need to be addressed during the intervention as well as understand the underlying causes. The administrator's diagnosis should then be presented to the provincial executive along with an action plan to address the issues at hand.

## ***Resourcing***

Resourcing an intervention has to do with the skills of an administrator and that of a team. The skills of the team must respond to the problem that is being remedied through an intervention.

### **(a) The Administrator**

A credible and experienced Administrator makes an intervention far more likely to be accepted by role-players within the municipality as well as more likely to succeed in terms of achieving its intended objective of supporting the municipality. Ideally, the Administrator should have a good understanding of local government issues and have been an Administrator or a senior manager in local government.

In order for that intervention to make a meaningful impact, it is recommended that there be an established team of approved administrators (pool of local government experts comprised of both Provinces and National level) that would be deployed for the intervention purposes within municipalities.

It is important that the administrator has credibility and enjoy the full support of all stakeholders. Part of the failure of some interventions has been the conflicting levels of authority between the Administrator who is a legal representative of the intervention and the Municipal Manager who is the accounting officer in municipality. A change management process is needed to ensure that the roles and responsibilities of the administrator are well-understood by both the Council and the administration in the municipality.

**(b) A multi-disciplinary team**

Considering that a problem for which an intervention is invoked may be a symptom of leadership, it is important that the team should be multi-disciplinary and have both technical and leadership skills to effect change. A team should be small and focussed specifically on the core mandate of local government ideally including an expert in governance and administration, a service delivery expert as well as legal and financial expertise. This team should be able to work with the Administrator as well as officials across spheres of government.

It is recommended that a database of officials and experts who would be able to contribute to these multi-disciplinary teams be developed and continuously updated to create a pool of people who can be called on as and when required.

**(c) Partnership approach**

To ensure that the change that will be brought in through an interventions is a lasting one, the team will have to work in partnership with the administration of the municipality. This will also ensure that capacity building and as much as possible a process of a skills transfer take place.

## ***Reporting***

The Administrator should ensure that throughout the period of intervention all the relevant stakeholders are continuously kept in the loop regarding progress with the intervention. He or she should ensure regular reporting to the municipality as well as to provincial and national DCoG and the NCOP and reports should be available to SALGA. The Administrator should also regularly update stakeholders within the municipalities including community organisations, local media and municipal departments to ensure transparency in the process. This should include aspects of financial turnaround and the cash-flow position of the municipality if that is relevant to the context of the intervention.

## ***Sustainability Plan***

Together with the municipality, the Administrator should develop a sustainability plan to ensure that the positive outcomes brought about by the intervention are maintained by Council and the administration of the municipality after the intervention ends. This is to avoid repeat interventions which have become common in some municipalities. These municipalities had shown improvements during an intervention but tended to regress once the interventions were removed. These cases point to the need for intervention exit strategies and the timing of the closure of interventions to take into account the ability of the municipality to be sustainable beyond the intervention.

## ***Intervention close-out***

At the close-out of an intervention, when handover takes place the council needs to be able to hold the administration of the municipality to account. This means that the Administrator may need to educate the council as the administration goes along. The Administrator would need to ensure that the necessary plans and structural documentation are in place (budgets, IDPs, organograms), have been approved by council and are being implemented by the municipality prior to the close out of the intervention.

## 7.3 POST INTERVENTION EVALUATION

It is good practice for DCoG to commission and independent evaluation of each intervention at the close of such intervention. This evaluation should assess the decision to conduct the intervention, in terms of how it was made, that it was a proper and fair process, the design of the intervention, from diagnostic to close out, and assess the effectiveness of the intervention in addressing its intended purpose. The evaluation must be a public document and made available to SALGA.

## 8 ROLES AND RESPONSIBILITIES

There are various government role-players that are important to ensure that this Municipal Support and Interventions Framework is implemented. The table below details some of the key roles to be further developed by the various parts of government.

**Table 1: Roles and responsibilities**

Government	Role	Responsibility
National CoGTA	Monitoring	<ul style="list-style-type: none"> <li>• Together with DPME, develop a coherent local government monitoring and evaluation framework, covering all stakeholders in the sector</li> <li>• Develop a common core set of local government performance indicators</li> <li>• Develop and integrated performance monitoring system</li> <li>• Compile the section 48 Report</li> </ul>
	Support	<ul style="list-style-type: none"> <li>• Develop capacity for monitoring to monitor local government performance</li> <li>• Assist provinces to develop guidelines for support</li> </ul>

<p><b>National CoGTA</b></p>	<p>Intervention</p>	<ul style="list-style-type: none"> <li>• Enact the monitoring, support and intervention legislation</li> <li>• Support provincial departments implement guidelines for intervention</li> <li>• Advise the Minister to approve/ disapprove the section 139 intervention submitted by the provincial executive</li> </ul>
<p><b>Minister responsible for local government</b></p>	<p>Intervention</p>	<ul style="list-style-type: none"> <li>• Receive a written submission from the provincial executive intervening in municipality</li> <li>• Approve or disapprove whole or part of an intervention; or set terms for the approval of an intervention<sup>22</sup> within 28 days of notification of a s139(1) intervention</li> <li>• Monitor progress on the intervention in terms of s 139(7).</li> <li>• Intervene on behalf of the national executive in the case of an s139 (4) or (5) intervention if the provincial executive does not adequately fulfil its supervisory role<sup>23</sup></li> </ul>
<p><b>NCOP</b></p>		<ul style="list-style-type: none"> <li>• Receive a written submission from the provincial executive intervening in municipality</li> <li>• Discuss the reasons for intervention</li> <li>• Approve or disapprove whole or part of an intervention; or set terms for the approval of an intervention<sup>24</sup> within 180 days of notification of an s139(1) intervention</li> </ul>

22 Steytler (2007), Local Government Law of South Africa

23 Steytler (2007), Local Government Law of South Africa

24 Steytler (2007), Local Government Law of South Africa



<p><b>NCOP</b></p>		<ul style="list-style-type: none"> <li>• On approval of the intervention by the NCOP, any terms set aside by the Minister lapse and are replaced by the terms set by the NCOP</li> <li>• Regularly review the intervention and make any appropriate recommendations to the provincial executive</li> <li>• Receive notification of the dissolution if a Municipal Council is dissolved in terms of s139 (1) (c)</li> <li>• Set aside a decision by a provincial executive to dissolve a municipality in terms of s139(3)(b) within 14 days of receipt of the notification<sup>25</sup></li> <li>• Monitor an intervention made in terms of s139(4) or (5), i.e. failure to approve a budget or take necessary revenue raising measures or failure to provide basic services due to a financial crisis or meet financial commitments</li> </ul>
	<p><b>National Treasury</b></p>	<p>Monitoring</p>
<p>Support</p>		<ul style="list-style-type: none"> <li>• Assist provincial treasuries to provide targeted support municipalities improve in financial management in terms of the MFMA</li> <li>• Set norms and standards to financial management</li> </ul>

25 ..... Steytler (2007), Local Government Law of South Africa

<b>Auditor-General</b>	Monitoring	<ul style="list-style-type: none"> <li>• Receive annual financial statements from municipalities</li> <li>• Audit the financial performance of municipalities</li> <li>• Raise issues of concern with the municipalities</li> </ul>
<b>National sector departments</b>	Monitoring	<ul style="list-style-type: none"> <li>• Set national norms and standards for service delivery by the sector</li> <li>• Develop key core performance indicators and targets for local government</li> <li>• Enable streamlining of monitoring/ reporting of performance with CoGTA</li> </ul>
	Support	<ul style="list-style-type: none"> <li>• Provide policy and guidelines for support</li> <li>• Assist provincial sector departments to support municipalities to perform adequately against the local government indicators for the sector</li> </ul>
<b>SALGA</b>	Support	<ul style="list-style-type: none"> <li>• The role of SALGA is detailed in a separate document – the Municipal Support Model</li> </ul>
<b>MEC for local government</b>	Monitoring	<ul style="list-style-type: none"> <li>• Implement the local government M&amp;E framework in the province</li> <li>• Monitor municipal performance against the common set of indicators</li> <li>• Receive section 46 (Systems Act) quarterly and annual reports from municipalities</li> <li>• Identify municipalities that are underperforming</li> </ul>

<p><b>MEC for local government</b></p>	<p>Support</p>	<ul style="list-style-type: none"> <li>• Investigate the reasons for underperformance</li> <li>• Work with underperforming municipalities to identify support needs</li> <li>• Liaise with provincial sector department regarding the support needs of municipalities</li> <li>• Coordinate support (broad and targeted) to municipalities that need it</li> <li>• Coordinate ‘hands on’ support to municipalities that are underperforming.</li> <li>• Produce the section 154 (Constitution) report</li> <li>• Compile the section 47 (Systems Act) Report in accordance with this Framework</li> <li>• Advise the MEC for local government</li> </ul>
<p><b>MEC for local government</b></p>	<p>Intervention</p>	<ul style="list-style-type: none"> <li>• Investigate reasons of Recommend that the provincial executive intervenes in a municipality that has persistently underperformed despite support given</li> <li>• Supervise and manage the intervention process</li> <li>• Receive reports from the Administrator, where one has been appointed</li> <li>• Report progress of an intervention to the municipality and the provincial executive</li> </ul>
<p><b>Provincial treasuries and MEC for finance</b></p>	<p>Monitoring</p>	<ul style="list-style-type: none"> <li>• Receive section 71 and 72 (MFMA) Reports from municipalities</li> <li>• Enforce the requirements of the MFMA</li> </ul>

<b>Provincial treasuries and MEC for finance</b>	Support	<ul style="list-style-type: none"> <li>• Provide broad based and targeted support to municipalities to ensure they perform adequately in financial management</li> </ul>
	Intervention	<ul style="list-style-type: none"> <li>• Manage the Municipal Financial Recovery Service when requested by the provincial executive intervening in a municipality for financial reasons</li> <li>• Submit reports of assessment to the provincial executive, municipality, Minister for local government and Minister for Finance</li> </ul>
<b>Provincial sector departments</b>	Monitoring	<ul style="list-style-type: none"> <li>• Implement national norms and standards for service delivery by the sector</li> <li>• Ensure reporting against key core performance indicators and targets for local government</li> </ul>
	Support	<ul style="list-style-type: none"> <li>• Provide targeted support to underperforming municipalities and municipalities under intervention to improve performance against the targets for the sector</li> </ul>
<b>Municipalities</b>	Monitoring	<ul style="list-style-type: none"> <li>• Develop and implement an institutional performance system encompassing the core set of indicators</li> <li>• Submit financial reports as required by the MFMA to council, provincial treasury and National Treasury</li> <li>• Submit quarterly and annual performance reports to CoGTA</li> </ul>

<b>Municipalities</b>	Support	<ul style="list-style-type: none"> <li>• Identify support needs in consultation with provincial CoGTA to address areas of underperformance</li> <li>• Fulfil support requirements identified by the province</li> <li>• Cooperate with the investigation by the MEC into areas of underperformance</li> <li>• Cooperate with the support teams that are allocated to the municipality</li> <li>• Provide an enabling environment for capacity building to take place</li> <li>• Monitor changes in performance</li> <li>• Provide a report on how support has happened and how the positive change will be sustained by the municipality</li> </ul>
	Intervention	<ul style="list-style-type: none"> <li>• Respond to the notice of intervention</li> <li>• Fulfil support requirements identified by the province in terms of the intended intervention</li> <li>• Cooperate with the provincial executive requirements</li> <li>• Monitor changes in performance</li> </ul>

## **9 CONCLUSION**

Development in South Africa hinges on the ability of the Country's municipalities to achieve its constitutional objectives. National and provincial government have a duty to monitor and support local government. This duty is dependent on solid and clear systems and processes to detect problems and to determine the type of support required by municipalities who cannot perform their responsibilities. Legislation and policy insists that national and provincial government must exercise the power of intervening into the executive functioning of municipalities as a last resort.

While there have been interventions that have been undertaken, the basis on which these have happened is not too clear. This Framework provides guidance on how monitoring, support and interventions should happen in municipalities. It is important that the basis on which performance is measured is established. Support should both be broad-based and targeted. The triggers for intervention should be agreed and presented through support as much as possible.

The role of SALGA in monitoring, support and interventions is largely to define a solid research agenda that would enable it to support municipalities through peer or horizontal learning to enhance performance. Importantly, the role of SALGA is also to ensure that where interventions are undertaken, they are done with integrity and in a manner that builds a municipality rather than break it further. These have to be time-bound and leave municipalities in a better position than they were before the intervention. This role is detailed in a separate document – the Municipal Support and Interventions Model.

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